

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

MIRANDA RUSSELL and)	
RUTH HECKMAN,)	
)	
Plaintiffs,)	
)	
v.)	Civil No. 5:17-cv-00016
)	
ROBERT HATFIELD)	
)	
Defendant.)	
_____)	
)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 5:17-cv-00121
)	
ROBERT NEAL HATFIELD,)	
)	
Defendant.)	

JOINT MOTION TO DISMISS PURSUANT TO RULE 41(A)(2)

Plaintiff United States of America and the Defendant, having entered into a settlement agreement that fully resolves the claims in the United States’ Complaint, hereby move the Court, under Rule 41(a)(2) of the Federal Rules of Civil Procedure, to dismiss the case captioned *United States of America v. Robert Neal Hatfield*, Civil No. 5:17-cv-00121 (“the Action”). See Exhibit A, Settlement Agreement Between United States of America and Robert Neal Hatfield (ECF No. 62-1). The Parties respectfully request that the Court dismiss the Action with prejudice while also retaining jurisdiction, under the authority of *Kokkonen v. Guardian Life Insurance Company of America*, 511 U.S. 375, 381-82 (1994), to enforce the settlement agreement they entered into on April 12, 2019, and which is attached to, and incorporated into, the present motion.

On March 9, 2018, the Court consolidated the United States' action and the case captioned *Miranda Russell and Ruth Heckman v. Robert Hatfield*, Civil No. 5:17-cv-00016.¹ *See* Order dated March 9, 2018 (ECF No. 21). In consideration of the terms of the Agreement between the United States and the Defendant, Plaintiff Ruth Heckman has represented to the Parties that she will move separately to have her pending action, Civil No. 5:17-cv-00016, dismissed with prejudice.

In further support of their motion, the Parties state as follows:

1. The United States initiated this action on July 13, 2017.
2. On April 12, 2019, the Parties executed a settlement agreement to resolve the claims in the United States' Complaint. *See* Exhibit A.
3. In consideration of, and consistent with, the terms of the Agreement, the Parties now move the Court to dismiss the United States' action with prejudice under Rule 41(a)(2).
4. Pursuant to the Agreement, the Parties also request that the Court retain jurisdiction to enforce the Agreement, under the authority of *Kokkonen v. Guardian Life Insurance Company of America*, 511 U.S. 375, 381-82 (1994), until April 12, 2024, which represents five years from the effective date of the Agreement.
5. The Agreement is the product of extensive, good-faith negotiations between the Parties. The Parties assert that the terms of the proposed dismissal order are proper and that neither party will be prejudiced by granting the requested relief. *See* Fed. R. Civ. P. 41(a)(2); *see also* *Davis v. USX Corp.*, 819 F.2d 1270, 1273 (4th Cir. 1987) ("The

¹ On February 21, 2019, the Court dismissed Plaintiff Miranda Russell's claims, with prejudice, for failure to prosecute. *See* Order dated Feb. 21, 2019 (ECF No. 53).

purpose of Rule 41(a)(2) is freely to allow voluntary dismissals unless the parties will be unfairly prejudiced.”).

Wherefore, the United States and the Defendant respectfully move the Court, under Rule 41(a)(2), to enter the attached proposed order, thereby dismissing the Civil Action with prejudice while retaining jurisdiction to enforce the terms of the Agreement.

Dated: April 25, 2019

Respectfully submitted,

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